

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 110 of 1984

PANNA LAL @ PANEY CHAND
V/S
DHAN RAJ

Mr. SANJEET PUROHIT, for the appellant / petitioner

Mr. MS VYAS, for the respondent

Date of Order : 7.7.2006

HON'BLE SHRI N P GUPTA, J.

ORDER

The matter was argued upto entire length. Mr. Vyas was called, and he informed that he has no such file in his office. Thereupon he was shown Vakalatnama bearing his signature whereupon he told that in the year 1994 his father had stopped practice, and at that time the client had come and taken away the entire file, and thereafter he has no instruction. Learned counsel for the appellant argued the matter threadbare. In the course of reading the evidence of the plaintiff's witnesses, as the substantial question of law framed is about misreading and non-reading of the evidence of the plaintiff, learned counsel for the appellant informed that he came across a document available in his file being photo stat copy of an agreement purportedly executed by the respondent to the effect that he has vacated the premises, and has handed over the vacant

peaceful possession to the plaintiff's son, and no controversy survives any more. Learned counsel feels that it is in view of this agreement that his client is also not contacting.

Learned counsel then shown me the photo stat copy of that agreement. In my view, after reading that agreement, it is clear that the controversy no more survives as the possession of the premises has already been vacated by the respondent, and possession has been handed over to the appellant. The appeal is, therefore, dismissed as infructuous.

(N P GUPTA), J.

/Sushil/